



Commissioners Present: Tino Silva, *Chair* Rex McIntosh
Keith Stattenfield, *Vice Chair* Jodi Muirhead
Hazel Alabado Beverly Silva
Markus Bracamonte Teresa Sulcer
Saskia Feain
Mary Hanna-Weir
Hosam Haggag

Absent: Chris Horton
Steve Lodge

Staff: Rod Diridon Jr., City Clerk
Brian Doyle, Interim City Attorney
Raania Mohsen, Management Analyst (Staff Liaison)

Matters for Council Action: None

1. **Call to Order.** Chair Tino Silva called the meeting to order with a quorum present at 7:10 pm. Chair Silva announced that he does not expect to get through all items on the Agenda. If items are not addressed, they will be included in the next meeting Agenda. Chair also noted that members of the public could provide comments before adjournment, as indicated on the Agenda as item 11.

2. **Approval of Minutes**

MOTION WAS MADE BY STATTENFIELD AND SECONDED BY HAGGAG TO APPROVE THE April 24, 2017 MEETING MINUTES. MOTION CARRIED UNANIMOUSLY 10:0.

MOTION TO EXCUSE COMMITTEE MEMBER STEVE LODGE WAS MADE BY STATTENFIELD AND SECONDED BY BEVERLY SILVA. MOTION CARRIED UNANIMOUSLY 10:0.

Chair Silva continued the meeting with Agenda Item 6, District Voting Method.

3. **District Voting Method**

a) Advantages & Disadvantages

City Clerk reviewed difference between At-Large and District Voting methods. Interim City Attorney led discussion on advantages and disadvantages of the By-District Voting method:

Advantages of By-District Voting	Disadvantages of By-District Voting
1. Ends current lawsuit	1. Mini-mayor effect
2. Ensures every area of the jurisdiction is represented and thus leads to more responsiveness	2. Possibly leads to horse-trading of votes between Council Members
3. Reduces costs of campaigning because there are fewer voters to reach out to	3. Council Member seats will continue to be inaccessible (every 4 years only) to minority groups if districts are not based on minority groups.
4. Elected Council Member will have the ability to know and focus on the represented area, citizens, and its issues	4. Will not lead to most qualified candidates being elected if they are all running in one district as opposed to running at-large.
5. Gives minority groups a better chance of being represented on the City Council	

Further discussion led to the following statements and questions:

- Can more than one Council Member represent a district? Can voting systems be combined? Yes, for example, two Council Members could represent one district and by-district voting could be combined with Instant Ranked Voting.
- Do all seats need to be elected by-district? No, there are jurisdictions that combine mixed voting systems. For example, in Oakland, one Council Member is elected at-large and the others are elected by-district.
- Districts can be drawn according to geography or population or community interests.
- If a jurisdiction violates the Federal Voting Act, than it usually results in the courts drawing the districts for the jurisdiction.

b) Preliminary Direction

Committee Members could not provide direction in favor of by-district voting at this time.

c) Demographic Report of 2011

Report provided to Committee Members as an attachment to Agenda packet.

4. Laws Affecting Election Methods of Council Members. Interim City Attorney provided overview/PowerPoint presentation on the California Voting Rights Act (CVRA), 2001 and reviewed key terms and concepts including:

- At-large method of election – any of the following methods of electing members to the governing body of a political subdivision:
 - One in which voters of the entire jurisdiction elect the members to the governing body.

- One in which candidates are required to reside within given areas of the jurisdiction and the voters of the entire jurisdiction elect the members to the governing body.
- One that combines at-large elections with district-based elections.
- District-based election – method of electing members to the governing body of a political subdivision in which the candidate must reside within an election district that is a divisible part of the political subdivision and is elected only by voters residing within that election district.
- Political sub-division- geographic area of representation created for the provision of government services, including, but not limited to, a general law city, general law county, charter city, charter county, charter city and county, school district, community college district, or other district organized pursuant to state law.
- Protected class – a class of voters who are members of a race, color, or language minority group, as referenced and defined in the Federal Voting Rights Act of 1965.
- Racially polarized voting – voting in which there is a difference in the choice of candidates that are preferred by voters in a protected class, and in the choice of candidates that are preferred by voters in the rest of the electorate.
- If at-large method of election results in a pattern of voting that affects a protected class of voters, such as its ability to elect candidates of its choice or influence the outcome of an election, then this is considered a violation of the (CVRA).
- The CVRA differs from the Federal Voting Rights Act in that it allows a safe harbor for cities accused of a violation through changing to by-district voting.
- A city that does not have protected class in geographically compact or concentrated areas is not precluded from a finding of racially polarized voting or a violation of the CVRA; if a violation is confirmed by the court, it shall implement appropriate remedies, including the imposition of district-based elections that are tailored to remedy the violation.

Committee Members discussed the value of changing the City's election method to by-district voting in order to resolve the current lawsuit and avoid additional costs to the city (e.g. defense of lawsuit, cost of Plaintiff's attorney fees and expenses). Committee Members stated that its primary goal is to make a recommendation regarding the City's election method that would increase the likelihood of the election of minority candidates to Council. By-district voting alone may not be enough. The Committee needs to consider other voting methods in addition to by-district voting e.g. cumulative voting, choice-ranked voting, multi-member districts.

Interim City Attorney stated that though the Council could have directly placed a charter amendment on the ballot proposing by-district voting in light of the current lawsuit, Council Members chose to form the Charter Review Committee to provide citizens with the opportunity to engage, provide input, and shape the City's future.

MOTION TO TAKE A 5-MINUTE RECESS AND CONTINUE MEETING UNTIL 9:30 PM WAS MADE BY HAGGAG AND SECONDED BY BRACAMONTE. MOTION CARRIED UNANIMOUSLY 11:0.

Chair Silva resumed the meeting at 8:35 pm.

Interim City Attorney completed presentation and noted that defendants of a CVRA complaint e.g. City of Santa Clara, are potentially responsible for covering the attorney fees and costs incurred by the plaintiff in addition to its own attorney fees and costs.

5. Review of Election/Voting Methods of City Council

a) California Municipal Democracy Index 2016

Interim City Attorney highlighted some key points noted in the California Municipal Democracy Index 2016, which was authored by California Common Cause and provided to Committee Members in the agenda packet as a valuable source of information about election and voting methods of cities across the State of California.

- The cities of Santa Clara and Sunnyvale are the only two cities in the State of California that elect Council Members at-large by numbered seats.
- The number of cities using by- district voting is increasing rapidly. Fifty-nine cities in California use the by-district election method and 16 additional cities have committed to transitioning to by-district elections in 2017 and 2018.
- Bay Area cities that use the by-district election method include San Jose, San Francisco, Oakland, and Berkeley. Fremont is also about to transition to by-district voting.

6. Plurality vs. Runoff

- Under California law, general law cities must elect their officials using the **plurality**-winner voting method, meaning the candidate who receives the most votes is elected, even if votes received are less than the majority.
- Some charter cities have adopted different voting methods, such as majority-winner voting methods, in which candidates must receive at least 51% of the votes to win. The two most common majority-winner voting methods are the **two-round runoff** and **instant runoff voting** (IRV).
- For example, the City of Santa Clara currently uses the plurality voting method, while the City of San Jose uses the two-round runoff form of voting, in which if no candidate receives a majority of the vote, the top two vote-getting candidates advance to a second election where the candidate who receives the most votes is elected.

7. Ranked Choice Voting vs. Cumulative

- **Ranked Choice Voting** is also known as **instant runoff voting** (IRV) and another majority-winner voting method. Under IRV, voters rank their candidates according to preference. If a candidate receives a majority of the first choice votes, he or she is elected. If no candidate receives a majority, the candidate who received the fewest votes is eliminated and his or her votes are redistributed to the voters' second choice. The votes are then recounted to see if any candidate now has a majority. If not, this process repeats until the lowest-scoring candidates are sequentially eliminated.
 - In **cumulative voting**, candidates run at-large, voters are allocated a number of votes equal to the number of seats to be filled, and the winner is determined by plurality vote. Under cumulative voting, a voter is not required to cast their votes to separate candidates and can allocate all of their votes to the same candidate.
 - Outside of California, many cities have adopted cumulative voting as an effort to empower minority communities in at-large voting.
 - In 2015, Santa Clara, California reached a settlement agreement with CVRA plaintiffs to adopt cumulative voting to address concerns of minority

disenfranchisement; however, the judge rejected the settlement on the grounds that Santa Clara was not authorized to adopt this voting system because it's a general law city.

- Today four Bay Area cities use IRV: Berkeley, Oakland, San Francisco, and San Leandro.
- In **limited voting** voters have fewer voters than there are seats. For example, in a five-seat district, each voter might be allowed to cast two votes, and the winners are the five candidates who receive the highest totals of votes.
- **Proportional Voting**, also known as single transferable vote (STV), is the multi-seat version of IRV and has not been supported in Santa Clara County in the past.

City Clerk suggested seeking advice from the Santa Clara County Registrar of Voters regarding viability of different voting systems because often, voter participation decreases if the new system is different from the norm and voters do not understand how to vote or how their votes are calculated. If a new voting method is implemented, much effort will need to be directed to education about the new voting method.

8. Future Agenda Topics. Committee Members requested the following information at the next meeting:

- pros and cons of the various voting methods
- feasibility of the various voting methods
- feasibility of multi-member districts.

9. Requested Information for Review

a) Charter Review Committee Recommendation of 2011

As a former member of the 2011 Charter Review Committee, Vice Chair Stattenfield reported that the Committee's recommendation to City Council included the following:

- 1) Consider proportional representation, or single transferable vote (STV), in which voters rank candidates in order of preference; candidates win when they reach the "victory threshold."
- 2) Amend charter to allow at-large elections (vs. at-large by seats) in order to avoid candidates picking their opponents based on seats.

b) Charter Review Committee Recommendation of 2016

As former Chair of the 2016 Charter Review Committee, Committee Member Beverly Silva reported that it was recommended to City Council to form a new Charter Review Committee to solely focus on evaluating the City's election method.

10. Public Presentations. Members of the public shared comments regarding cumulative voting; limited voting; the CVRA; Ranked Choice Voting in San Francisco, Berkeley, and Oakland; voter registration and education to minority communities; campaign funding; and questions about the legality of multi-member districts.

11. Adjournment. The meeting adjourned at 9:30 pm.

MOTION TO ADJOURN THE MEETING MADE BY HOSAM HAGGAG AND SECONDED BY KEITH STATENFIELD. MOTION CARRIED UNANIMOUSLY 11:0.